Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1978 No. 78-1516

PIERRE J. WESSEL, *Appellant*

v.

PENNSYLVANIA STATE BOARD OF LAW EXAMINERS, *Appellee*

MOTION TO DISMISS OR AFFIRM

Appeal from the Judgment of the Supreme Court of Pennsylvania at No. 327, Miscellaneous Docket No. 21 Order dated January 4, 1979

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TABLE OF CONTENTS

	Page
Motion to Dismiss or Affirm	1
Statement	2
Argument	4
Conclusion	5

TABLE OF CITATIONS

Cases:

Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232, 239 (1957) 4

In Re Griffiths, 413 U.S. 717 (1973) 4

Murphy v. Pennsylvania State Board of Bar Examiners, No. 78-1048 4

Miscellaneous:

Pennsylvania Rules of the Supreme Court, Rule 8(c)(2) 2, 3, 4

Pennsylvania Bar Admission Rules, Rule 203 2

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MOTION TO DISMISS OR AFFIRM

The Appellee, Pennsylvania Board of Law Examiners, moves this Court to dismiss the appeal in the above entitled case or, alternatively, to affirm the decision of the Supreme Court of Pennsylvania on the ground that this appeal fails to present any substantial federal questions.

STATEMENT

This is a direct appeal from a decision of the Supreme Court of Pennsylvania upholding an order of the Pennsylvania Board of Law Examiners which denied the Appellant's application to sit for the Pennsylvania bar examination.

In Pennsylvania, applications for admission to the state bar are initially passed upon by the Board of Law Examiners which evaluates the applications under standards contained in rules promulgated by the Pennsylvania Supreme Court. Applicants are given the right to petition the Supreme Court for review of any adverse decision of the Board.

The Appellant, Pierre J. Wessel, originally applied to sit for the Pennsylvania bar examination on February 27, 1973. However, he did not sit for the bar at that time because he failed to satisfactorily complete his studies at Temple University Law School, a law school accredited by the American Bar Association. In February of 1976, Mr. Wessel again applied to take the bar examination, stating that he was a student at the International School of Law, a non-accredited law school. This application was eventually denied because of Mr. Wessel's failure to comply with Rule 8(c)(2) of the Pennsylvania Rules of the Supreme Court which required that applicants for the state bar "have completed the study of law in a law school accredited by the American Bar Association; or . . . have acquired a legal education which in the opinion of the State Board is the equivalent." The equivalency provision of Rule 8(c)(2) had been interpreted by the Pennsylvania Supreme Court to apply only to graduates of foreign law schools. (This interpretation has since been made explicit with the adoption by the Pennsylvania Supreme Court of Rule 203 of the Pennsylvania Bar Admission Rules).

Mr. Wessel filed a petition in the Supreme Court of Pennsylvania seeking review of the Board's denial of his application but his petition was denied by that Court. He then sought a writ of certiorari in this Court but that petition was later withdrawn by stipulation when the Pennsylvania Supreme Court vacated its order and remanded the case to the Board for an "equivalency" hearing.

The Board then held a hearing in which it considered Mr. Wessel's contention that he had actually completed the study of law at Temple Law School. The Board rejected Mr. Wessel's contention and again denied his application to take the bar because of failure to comply with Rule 8(c)(2). Mr. Wessel's petition to the Pennsylvania Supreme Court for review of this determination was denied by order dated January 4, 1979. It is this order which is the basis of the present appeal.

ARGUMENT

Mr. Wessel contends that Rule 8(c)(2) denied him his constitutional rights to due process and equal protection. However, it is clear that a state can set qualifications for admission to its bar as long as the qualifications have a rational connection to the fitness or capacity of applicants to practice law and do not involve an invidious discrimination. *Schware v. Board of Bar Examiners of the State of New Mexico*, 353 U.S. 232, 239 (1957); *In Re Griffiths*, 413 U.S. 717 (1973).

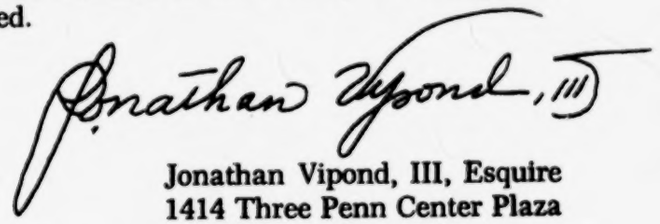
The requirement set down by the Pennsylvania Supreme Court that all applicants for the state bar graduate from ABA-accredited law schools is rationally related to ensuring the competency of the members of the state bar. Furthermore, the differentiation between graduates of accredited law schools and graduates of non-accredited law schools is certainly not an invidious one.

Mr. Wessel also argues that his right to equal protection is violated by the fact that, under the Pennsylvania rules, graduates of foreign law schools may demonstrate the equivalency of their education to the education in an ABA-accredited law school while students at domestic law schools are not permitted to do this. However, the distinction between foreign and domestic law schools is also clearly reasonable because foreign law schools are outside of the geographical jurisdiction of the ABA.

This Court has only recently dismissed an appeal challenging the same Pennsylvania rule—*Murphy v. Pennsylvania State Board of Bar Examiners*, No. 78-1048, Order dated February 20, 1979.

CONCLUSION

For the foregoing reason, the Appellee, Pennsylvania Board of Law Examiners, moves that this appeal be dismissed or that the decision of the Pennsylvania Supreme Court be affirmed.



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